



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
505 9TH STREET, N.W.
SUITE 1000
WASHINGTON, DC 20004

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Martin Alles, et al. :
Application No. 10/586,744 : **DECISION ON PETITION**
Filed: June 23, 2008 :
Attorney Docket No.: GRA26 029US :

This is a decision in response to the renewed petition under 37 CFR 1.181 (no fee), filed January 14, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 22, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 2, 2010. A petition under 37 CFR 1.181 was filed October 15, 2010; however, the petition was dismissed in a decision mailed December 2, 2010. On January 14, 2011, the present petition was filed, wherein petitioner further argues that the Office action of December 22, 2009 was not received.

As set for in MPEP 711.03(c), the following showing is required for non-receipt of an Office action:

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of

non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment dated August 2, 2010 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2618 technical support staff for re-mailing the non-final Office action. The period for reply will run from the mailing date of the Office action.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions